



## United States Department of the Interior

MINERALS MANAGEMENT SERVICE  
Alaska Outer Continental Shelf Region  
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Mr. Randy Bates  
Division of Governmental Coordination  
Office of the Governor  
P.O. Box 110030  
Juneau, AK 99811-0030

2/28/01

Dear Mr. Bates:

These comments are submitted in response to the Notice of Proposed Changes in the Regulations of the Alaska Coastal Policy Council. The Alaska Coastal Policy Council proposes changes in Title 6 of the Alaska Administrative Code dealing with review of a project for consistency with the Alaska Coastal Management Program (ACMP).

The Federal regulations at 15 CFR 930.34 – Federal and State agency coordination, in subparagraph (b) encourage States to list in their management programs Federal agency activities which may require a Federal agency consistency determination (CD). The proposed changes include a list of Federally regulated activities subject to consistency review, but do not include a listing of Federal agency activities which may require a CD. It may be helpful to include this listing under 6 AAC 50.325 – Federal Consistency Determination.

**6 AAC 50.325 Federal Consistency Determination.** The proposed regulations state that in order to be considered complete, a CD must include specific information. This section lists 7 items that must be included in the consistency determination in order for it to be determined “complete” by the State. Items (5) through (7) go beyond the requirements of the federal regulations at 15 CFR 930.39 – *Content of a consistency determination*. A determination by the State that a CD is not complete does not extend the State’s review period if all of the information required by 15 CFR 930.39 has been submitted. The federal regulations at 15 CFR 930.41 – *State agency response*, state that “If a Federal agency has submitted a consistency determination and information required by 930.39(a), then the State agency shall not assert that the 60-day review period has not begun for failure to submit information that is in addition to that required by 930.39(a).

**6 AAC 50.335 Initiation of Consistency Review of a Federal Consistency Determination.** This section states that the definition of a completed consistency determination is defined in 6 AAC 50.325(c). As stated above, the definition in the referenced subsection goes beyond that required by Federal regulation. Perhaps this reference should be replaced with reference to the Federal regulations at 15 CFR 930.59.

**6 AAC 50.345 Request for Additional Information for a Federal Consistency Determination.** This section should clarify the points made above. A review participant may

request information that is in addition to that required by the Federal regulations, but that request will not result in extension of the review period established by the Federal regulations.

**6 AAC 50.375 Proposed Consistency Response to a Federal Consistency Determination.** MMS supports the addition of this section to the regulations. It provides opportunity for resolution of issues during the review period rather than after a final determination is provided. The detailed information required for a proposed consistency determination response should provide parties with enough information to be able to address specific issues of concern. Early OCRM intervention is provided for and allows for informal mediation prior to the final consistency response.

**6 AAC 50.405 Federally Regulated Activities Subject to Consistency Review.** Paragraph (6) lists Federal authorizations issued by the Department of the Interior that are subject to consistency review. Subparagraph (D) covers permits and licenses required for drilling and mining on Outer Continental Shelf Lands. It would be very helpful to have the benefit of a more detailed description of the permits and licenses covered by this statement. There are many levels and types of permits and licenses issued by the MMS for activities occurring on the OCS. A more detailed discussion of these may be more appropriately addressed through a memorandum of agreement between the State and MMS. We believe it would be mutually beneficial to come to an understanding of the issues involved and to develop an agreement regarding how to proceed for specific types of permits and licenses.

The Federal regulations at 15 CFR 930.74 – *OCS activities subject to State agency review*, state that management program lists required by 15 CFR 930.53 shall include a reference to OCS plans which describe in detail federal license or permit activities affecting any coastal use or resource. The reference to permits and licenses in 6 AAC 50.405(6)(D) should specifically address the requirements of the Federal regulations.

**6 AAC 50.475 Proposed Consistency Response to a Consistency Certification.** The requirement for a proposed consistency certification response from DGC within 44 days of receipt of a complete certification will provide the State, the applicant, and the Federal agency opportunity to resolve issues during the review period rather than after a final determination is provided. The detailed information required for a proposed consistency certification response should provide parties with enough information to be able to address specific issues of concern. Early OCRM intervention is provided for and allows for informal mediation prior to the final consistency response. MMS supports this requirement.

We appreciate the opportunity to comment. Please contact Beverly Sires, of my staff, at (907) 271-6419 if you have questions or require further clarification regarding these comments.

Sincerely,

  
Regional Director

John Goll